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In re Application of :
BOGATEZ :
Application No. 09/674,142 :
PCT No.: PCT/AU99/00308 : DECISION ON PETITION
Int. Filing Date: 23 April 1999 :
Priority Date: 24 April 1998 : UNDER 37 CFR 1.181
Attorney Docket No.: DVAI109.001A :
For: BAG HANDLE AND METHOD AND :
MEANS OF ATTACHMENT :

This is a response to applicant's unsigned facsimile communication dated 05 September 2001.

BACKGROUND

On 23 April 1999, applicants filed international application no. PCT/AU99/00308 which claimed a priority date of 24 April 1998. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 04 November 1999. A proper Demand was filed with for International Preliminary Examination prior to the 19th month from the earliest claimed priority date. Accordingly, the thirty-month time period for submitting the requisite basic national fee in the United States of America was extended to expire 30 months from the priority date, i.e. 24 October 2000.

On 24 October 2000, applicant filed a transmittal letter requesting entry into the national stage in the United States of America under 35 U.S.C. 371. Filed with the Transmittal Letter were, *inter alia*, the requisite basic national fee of \$1000, a copy of the international application, and a preliminary amendment.

On 20 November 2000, the United States Designated/Elected Office mailed a Notification of Missing Requirements (PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge under 37 CFR 1.492(e).

On 23 January 2001, applicant filed a transmittal letter requesting entry into the national stage in the United States of America under 35 U.S.C. 371. Filed with the Transmittal Letter were, *inter alia*, an executed declaration and power of attorney, a small entity statement, an extension of time fee for one month, and the \$65 surcharge for filing an

oath or declaration after 30 months from the priority date under 37 CFR 1.492(e).

On 01 August 2001, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 20 November 2000 within the time period set therein.

DISCUSSION

On 05 September 2001, applicant filed the present request which was accompanied by, inter alia, a copy of an executed declaration and a postcard receipt dated 23 January 2001. A review of the application file reveals that the declaration originally filed 23 January 2001 is located therein, therefore, the Notification of Abandonment (PCT/DO/EO/909) dated 01 August 2001 was mailed in error.

CONCLUSION

In view of the declaration filed 23 January 2001, the request is GRANTED, and the Notification of Abandonment (PCT/DO/EO/909) dated 01 August 2001 is hereby VACATED.

The application has an international filing date of 23 April 1999 under 35 U.S.C. 363 and a 35 U.S.C. 371(c) date of **23 January 2001**.

Deposit Account No. 11-1410 has been charged \$55 for one month extension of time fee and a \$65.00 surcharge fee under 37 CFR 492(e) for supplying an oath or declaration later than 30 months from the earliest claimed priority date.

This application is being returned to the United States/Elected Office for processing in accordance with this decision.



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